

ORDERED.

Dated: June 29, 2016



Karen S. Jennemann
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION
www.flmb.uscourts.gov

In re)	
)	
CARBIDE INDUSTRIES, LLC,)	Case No. 6:14-bk-09894-KSJ
)	Chapter 11
Debtor.)	
_____)	
CARBIDE INDUSTRIES, LLC,)	
)	
Plaintiff,)	
)	
vs.)	Adversary No. 6:15-ap-00159-KSJ
)	
LECESSEE CONSTRUCTION)	
SERVICES, LLC,)	
)	
Defendant.)	
_____)	

ORDER GRANTING MOTION TO AMEND COMPLAINT

Plaintiff Carbide Industries, LLC asks this Court for leave to amend its Complaint.¹
Plaintiff filed its original Complaint on November 20, 2015.² Plaintiff then filed an Amended

¹ Doc. No. 22.

² Doc. No. 1.

Complaint³ months after Defendant filed its Motion to Dismiss.⁴ Plaintiff withdrew its Amended Complaint⁵ and filed a Motion for Leave to File First Amended Complaint.⁶

Federal Rule of Civil Procedure 15,⁷ incorporated by reference under Federal Rule of Bankruptcy Procedure 7015,⁸ controls this analysis. Because the Amended Complaint was not filed within 21 days of the Motion to Dismiss,⁹ the Court must look to Rule 15(a)(2) to decide whether to allow the Amended Complaint. Under this provision, “a party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.”¹⁰ The Court notes this is Plaintiff’s first attempted amendment, justice is furthered by the amendment, and no prejudicial or new jurisdictional concerns are asserted in the Amended Complaint.

Accordingly, it is

ORDERED:

1. The Motion for Leave to File First Amended Complaint is **GRANTED**.
2. On or before July 8, 2016, Plaintiff separately shall file a revised Amended Complaint removing Counts II and III that raise claims for unjust enrichment and *quantum meruit*.
3. Defendant is directed to answer the Amended Complaint within 21 days.
4. Defendant may not reassert the jurisdictional arguments made previously in its Motion to Dismiss. The jurisdictional analysis in this Court’s Order Partially Granting and Partially Denying Defendant’s Motion to Dismiss controls.

³ Doc. No. 19.

⁴ Doc. No. 16.

⁵ Doc. No. 21.

⁶ Doc. No. 22.

⁷ Fed. R. Civ. P. 15.

⁸ Fed. R. Bankr. P. 7015.

⁹ Fed. R. Civ. P. 15(a)(1)(B).

5. The pretrial conference set for July 14, 2016 at 11:00 a.m. is **RESCHEDULED** to September 15, 2016 at 2:00 p.m.

Copies furnished to:

Attorney, Ruben Laboy Jr., is directed to serve a copy of this order on interested parties and file a proof of service within 3 days of entry of the order.

¹⁰ Fed. R. Civ. P. 15(a)(2).